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11 RESTORATION HARDWARE, INC.
12 RH US, LLC

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

19 RESTORATION HARDWARE, INC., a
20 Delaware corporation, and RH US, LLC,
21 a Delaware limited liability company,

22 Plaintiffs,

23 vs.

24 LIGHT IN THE BOX LIMITED, a
25 Hong Kong limited liability company,

26 Defendant.

27 Civil Case No.: 3:15-cv-00924

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COMPLAINT

29 Plaintiffs Restoration Hardware Inc. and RH US, LLC (collectively, "RH")
30 allege the following:

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NATURE OF THIS ACTION

32 1. This is an action for copyright infringement arising out of Defendant's
33 use of RH's copyrighted images on Defendant's website to sell knockoffs of RH
34 products.

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PARTIES

36 2. Plaintiff Restoration Hardware, Inc. is a Delaware corporation whose
37 principal place of business is located at 15 Koch Road, Corte Madera, California,
38 94925.

1 3. Plaintiff RH US, LLC is a Delaware limited liability company whose
2 principal place of business is located at 15 Koch Road, Corte Madera,
3 California, 94925.

4 4. Defendant Light In The Box Limited is a Hong Kong limited liability
5 company whose principal place of business is located at 7/F., China Insurance
6 Group Building, No. 141 Des Voeux Road, Central, Hong Kong, China.

JURISDICTION AND VENUE

8 5. This Court has subject matter jurisdiction over this action pursuant to
9 28 U.S.C. §§ 1331 and 1338 because this action involves a claim arising under the
10 Copyright Act of 1976, as amended, 17 U.S.C. § 101, *et seq.*

11 6. This Court has personal jurisdiction over Defendant because Defendant
12 purposefully, willfully, and/or intentionally infringed upon RH's copyrights by using
13 RH's copyrighted photographs on its website. Upon information and belief,
14 Defendant used the copyrighted images with the knowledge that RH is located in
15 California and that RH would likely suffer injury or harm resulting from the
16 infringement in California. Indeed, Defendant continued its infringing conduct
17 despite notice from RH. Upon information and belief, Defendant has purposefully
18 directed its tortious conduct and activities at California, and RH's claim arises out of
19 such conduct and activities. The exercise of personal jurisdiction is thus reasonable.

20 7. Venue is proper in this judicial district under 28 U.S.C. § 1331(b)(2)
21 because jurisdiction is not founded solely on diversity of citizenship and a
22 substantial part of the property that is the subject of this action—namely, RH’s
23 copyrighted photographs—is situated in this judicial district. Venue is proper in the
24 Northern district of this court, San Francisco division.

INTRADISTRICT ASSIGNMENT

26 8. Pursuant to Civil Rule 3-2(c), this is an Intellectual Property Action
27 assignable on a district-wide basis.

28 | //

3993 Howard Hughes Parkway
Suite 600
Las Vegas, NV 89169-5996

LEWIS ROCA
ROTHGERBER

1 GENERAL ALLEGATIONS

2 9. RH is an innovative and popular luxury brand in the home furnishings
3 marketplace. RH designs, manufactures, and sells a wide variety of home
4 furnishings, including furniture, lighting, bed, bath, hardware, and other products.

5 10. RH spends a substantial amount of time, money, and effort staging and
6 photographing its products for RH's renowned product catalogs, known as "source
7 books," and its website, <rh.com>. RH's source books and website feature
8 thousands of beautiful photographs showing RH products in upscale and refined
9 settings.

10 11. RH routinely obtains copyright registrations for its source books. Prior
12 to January 2015, Restoration Hardware, Inc. owned all right, title, and interest in the
13 copyrights of the photographs in RH's source books. In January 2015, Restoration
14 Hardware, Inc. assigned its rights in the photographs to RH US, LLC, and RH US,
15 LLC subsequently granted Restoration Hardware, Inc. a license to use the
photographs.

16 12. Unscrupulous third parties frequently use RH's photographs from its
17 source books and website to sell knockoffs of RH's products.

18 13. Upon information and belief, Defendant owns and operates a web-
19 based retail business based in Hong Kong Special Administrative Region of the
20 People's Republic of China.

21 14. In or about October 2014, RH learned that Defendant was using
22 unauthorized copies of RH's copyrighted photographs (the "Infringing
23 Photographs") to sell Defendant's own products, presumably knockoffs.

24 15. To the best of RH's knowledge, Defendant sells its goods on its website
25 throughout the United States, including in this judicial district.

26 16. A sample of RH's original photographs and the corresponding
27 Infringing Photographs as displayed on Defendant's website are set forth in the table
28 below:

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ROTHGERBER
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 Suite 600
 Las Vegas, NV 89169-5996

RH Images		Light In The Box Images	
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RH Images	Light In The Box Images
	

17. On October 15, 2014, RH sent a cease and desist letter to Defendant, demanding that it, among other things, cease using RH's intellectual property, including RH's copyrights in the Infringing Photographs, and pay RH a reasonable amount for use of each of the copyrighted photographs at issue.

18. Defendant failed to respond but removed some of the Infringing Photographs from its website.

19. On November 4, 2014, RH sent a second cease and desist letter to Defendant again demanding that Defendant, among other things, cease violating RH's intellectual property rights, including RH's copyrights in the Infringing Photographs, and pay RH a reasonable amount for its use of each of the copyrighted images at issue.

20. Again, Defendant failed to respond.

21. On November 17, 2014, RH sent a third cease and desist letter to Defendant demanding that that it cease and desist from violating RH's intellectual property rights.

22. Again, Defendant failed to respond.

23. With no other remaining options for protecting its valuable intellectual property, RH now brings this copyright infringement claim to seek redress for

1 Defendant's blatant infringement of RH's copyrighted photographs.

2 **COUNT I**
 3 (Copyright Infringement
 4 under 17 U.S.C. § 501 *et seq.*)

5 24. RH incorporates the allegations in foregoing paragraphs as though fully
 6 set forth herein.

7 25. RH owns copyrights in the RH photographs identified above, including
 8 pending U.S. Copyright applications for the source books and website containing the
 9 photographs at issue, which applications were duly filed with the U.S. Copyright
 Office with the appropriate fees having been paid.

10 26. Defendant infringed RH's copyrights by copying and publicly
 11 displaying the photographs on Defendant's website.

12 27. Plaintiffs did not authorize Defendant's copying or public display of the
 13 photographs.

14 28. Defendant's conduct was willful within the meaning of the Copyright
 15 Act.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, RH requests that the Court enter:

18 A. A preliminary and permanent injunction prohibiting Defendant and its
 19 officers, agents, servants and those persons in active concert or participation with
 20 them from directly or indirectly infringing RH's rights in the copyrighted work;

21 B. Judgment in favor of RH and against Defendant for, at RH's election,
 22 actual damages in amount to be determined at trial, together with the profits derived
 23 from Defendant's infringement, or statutory damages for each violation under 17
 24 U.S.C. § 504;

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C. For entry in favor of RH and against Defendant for RH's costs and attorneys' fees incurred in this action, pursuant to 17 U.S.C. § 505; and

D. For such other relief as the Court deems just, equitable and proper.

Respectfully submitted,

Dated: February 27, 2015

By: /s/ Michael J. McCue

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